

**ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
JOHN MAUZY PITTMAN, CHIEF JUDGE**

DIVISION I

CACR06-653

May 2, 2007

PHILLIP DWAYNE DUVALL
APPELLANT

APPEAL FROM THE GRANT
COUNTY CIRCUIT COURT
[NO. CR-02-55-1]

V.

HON. CHRIS E. WILLIAMS,
JUDGE

STATE OF ARKANSAS
APPELLEE

AFFIRMED

The appellant in this criminal case was charged with numerous criminal offenses involving controlled substances after a search warrant was issued and a search yielded physical evidence of contraband. Appellant moved to suppress the fruits of the search. After the trial court denied appellant's motion to suppress, he entered a guilty plea to possession of methamphetamine pursuant to Ark. R. Crim. P. 24.3(b) conditioned on appellate review of the denial of his suppression motion. On appeal, appellant argues that the search was invalid because the residence searched was not the residence described in the search warrant and because the warrant was obtained as the result of an invalid extraterritorial investigation conducted by officers of the Saline County Sheriff's Department in Grant County, Arkansas. We affirm.

On review of a trial court's denial of a motion to suppress evidence, we make an independent determination based upon the totality of the circumstances, giving respectful consideration to the findings of the trial judge. *Davis v. State*, 351 Ark. 406, 94 S.W.3d 892 (2003). Appellant first asserts that the warrant was faulty and the fruits of the search must be suppressed because the search warrant specified the property to be searched as 8607 S. Main, the property of appellant, and the contraband was found in a residence at 8705 S. Main. Because both properties were searched under the authority of the single search warrant, appellant argues, the contraband found at 8705 S. Main must be suppressed. We do not agree.

The rights secured by the Fourth Amendment are personal in nature. *Rakas v. Illinois*, 439 U.S. 128 (1978). Thus, a defendant must have standing before he can challenge a search on Fourth Amendment grounds. *Id.*; *Gaylor v. State*, 354 Ark. 511, 127 S.W.3d 507 (2003). A person who is aggrieved by an illegal search and seizure only through introduction of evidence secured by the search of a third person's premises or property has not had any of his Fourth Amendment rights violated; his rights are violated only if the challenged conduct invaded his own legitimate expectation of privacy, rather than that of a third party. *Gaylor v. State, supra*.

Here, appellant has failed to show that his Fourth Amendment rights were violated because his testimony at the suppression hearing was that he did not own or occupy the property at 8705 S. Main and that the sum total of his interest in that property was "none whatsoever." In light of his denial of any interest in or occupancy of the residence that was

the subject of the disputed search, appellant has failed to establish standing to object to that search.

Appellant also argues that the search was invalid because the warrant was the result of an invalid extraterritorial investigation conducted by officers of the Saline County Sheriff in Grant County, Arkansas. We do not address this argument because it is not preserved for appeal. Although appellant did raise and obtain a ruling on the legality of the search and arrest, the court did not rule on the issue now presented, the legality of the extraterritorial investigation. We cannot review a matter on which the trial court has not ruled. *Dowty v. State*, 363 Ark. 1, 210 S.W.3d 850 (2005).

Affirmed.

BIRD, J., agrees.

HART, J., concurs.